

104TH CONGRESS
1ST SESSION

H. R. 806

To ensure the provision of appropriate compensation for the real property and mining claims taken by the United States as a result of the establishment of the White Sands Missile Range, New Mexico.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1995

Mr. SKEEN (for himself, Mr. SCHIFF, and Mr. RICHARDSON) introduced the following bill; which was referred to the Committee on the Judiciary and, in addition, to the Committee on National Security, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure the provision of appropriate compensation for the real property and mining claims taken by the United States as a result of the establishment of the White Sands Missile Range, New Mexico.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION. 1. SHORT TITLE.**

4 This Act may be cited as the “White Sands Fair
5 Compensation Act of 1995”.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) The White Sands Missile Range, New Mex-
4 ico, is an installation that is vital to the national se-
5 curity interests of the United States.

6 (2) The United States established the Range
7 during World War II, and, in doing so, temporarily
8 displacing ranchers and miners who owned land
9 within the boundaries of the Range or whose liveli-
10 hood depended on such land.

11 (3) These ranchers and miners made a signifi-
12 cant contribution to the effort of the United States
13 to win World War II and to the post-war national
14 defense program by vacating land within the Range
15 at the request of the United States Government.

16 (4) In 1975, all land within the Range was per-
17 manently taken by the United States Government.

18 (5) The United States Government has never
19 fully compensated ranchers and miners who owned
20 land within the boundaries of the Range or whose
21 livelihood depended on such land for the value of the
22 land and claims taken by the Government.

23 (6) The method utilized by the United States
24 Government to compensate such ranchers differs
25 from the method utilized by the Government to com-
26 pensate ranchers during the taking of land in the

1 area in New Mexico that became the McGregor
2 Range and Extension Area of the Fort Bliss Military
3 Reservation, Texas. Ranchers owning property
4 in that were fully compensated for their ranches as
5 operating units, including the carrying capacity of
6 public domain lands associated with such ranches.

7 (7) Though the Legacy Fellowship Program in
8 Natural and Cultural Resource Management established
9 by section 328 of Public Law 102–484, the
10 Department of Defense is sponsoring a 5-year research
11 project on the historical significance of ranching
12 in the area that is now the White Sands Missile
13 Range.

14 (8) The United States Government has an obligation
15 to pay full compensation to ranchers and
16 miners who owned land within the boundaries of the
17 Range or whose livelihood depended on such land for
18 the value of the land and claims that were taken by
19 the Government.

20 **SEC. 3. ESTABLISHMENT OF COMMISSION.**

21 (a) ESTABLISHMENT.—There is established in the
22 Department of Defense a commission to be known as the
23 White Sands Fair Compensation Commission (hereafter in
24 this section referred to as the “Commission”).

25 (b) MEMBERSHIP.—

1 (1) NUMBER AND APPOINTMENT.—The Com-
2 mission shall be composed of nine members ap-
3 pointed by the Secretary of Defense as follows—

4 (A) one shall be an employee of the De-
5 partment of Defense;

6 (B) one shall be an employee of the De-
7 partment of the Interior who shall be appointed
8 from among individuals recommended by the
9 Secretary of the Interior;

10 (C) five shall be individuals appointed from
11 among individuals recommended by the Sen-
12 ators and Representatives from the State of
13 New Mexico, with one individual appointed
14 from among the recommendations of each such
15 Senator and Representative; and

16 (D) two shall be individuals appointed
17 from among individuals recommended by the
18 Governor of New Mexico.

19 (2) EXPERTISE.—The Secretary shall, to maxi-
20 mum extent practicable, make appointments under
21 this subsection from among individuals rec-
22 ommended to the Secretary who are present or
23 former residents of the State of New Mexico and
24 who have an expertise in matters of agricultural eco-

1 nomics or the history of the establishment of the
2 White Sands Missile Range, New Mexico.

3 (c) TERMS AND VACANCIES.—Members of the Com-
4 mission shall be appointed for the life of the Commission.
5 Any vacancy in the Commission shall not affect its powers
6 but shall be filled in the same manner as the original ap-
7 pointment.

8 (d) COMPENSATION.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), members of the Commission shall serve
11 without pay or compensation.

12 (2) TRAVEL EXPENSES.—Each member of the
13 Commission shall be allowed travel expenses, includ-
14 ing per diem in lieu of subsistence, at rates author-
15 ized for employees of agencies under subchapter I of
16 chapter 57 of title 5, United States Code, while
17 away from their homes or regular places of business
18 in the performance of services for the Commission.

19 (e) OFFICERS.—The members of the Commission
20 shall elect the chairman of the Commission and any other
21 officers that may be required for the Commission. The
22 term of office of an officer of the Commission shall be
23 established by the members of the Commission.

1 (f) QUORUM.—Five members of the Commission shall
2 constitute a quorum but a lesser number may hold hear-
3 ings.

4 (g) BYLAWS.—The Commission may make such by-
5 laws, rules, and regulations as it considers necessary to
6 carry out its functions.

7 (h) ADMINISTRATIVE SUPPORT.—The Secretary shall
8 provide the Commission with such professional and tech-
9 nical support, clerical staff and services, and administra-
10 tive support as the Secretary determines necessary for the
11 Commission to carry out its responsibilities under this Act.
12 Amounts required by the Secretary to carry out this sub-
13 section shall be paid from funds appropriated under sec-
14 tion 5(a).

15 (i) TERMINATION.—The Commission shall terminate
16 on the date that is 14 months after the completion of the
17 evaluations by the Commission of the claims submitted to
18 the Commission under section 4.

19 **SEC. 4. EVALUATION AND PAYMENT OF CLAIMS FOR COM-**
20 **PENSATION FOR TAKINGS RELATING TO**
21 **WHITE SANDS MISSILE RANGE.**

22 (a) IN GENERAL.—Claims for compensation for
23 takings of property associated with the establishment of
24 the White Sands Missile Range, New Mexico, shall be eval-

1 uated, and payments of such compensation made, in ac-
2 cordance with this section.

3 (b) SUBMITTAL OF CLAIMS.—

4 (1) IN GENERAL.—Subject to paragraph (3),
5 any individual described in paragraph (2) may sub-
6 mit to the White Sands Fair Compensation Commis-
7 sion a claim for full compensation for the taking of
8 such individual's property as a result of the estab-
9 lishment of the White Sands Missile Range.

10 (2) ELIGIBLE INDIVIDUALS.—The following in-
11 dividuals may submit claims under this subsection:

12 (A) Individuals—

13 (i) who—

14 (I) owned real property that was
15 taken by the United States for the
16 purpose of establishing the area now
17 known as the White Sands Missile
18 Range, New Mexico; and

19 (II) engaged in ranching activi-
20 ties on the real property at the time
21 of the taking; and

22 (ii) who claim that the amount paid
23 by the United States in 1975 in compensa-
24 tion for the taking was not full compensa-

tion for the value of the property at the time of the taking.

(B) Individuals who—

(i) possessed a mining claim in real property that was so taken; and

(ii) claim that the amount paid by the United States in 1975 in compensation for the taking was not full compensation for value of the mining claim at the time of the taking.

(C) Heirs or assigns of the individuals described in subparagraphs (A) and (B).

(3) DEADLINE FOR CLAIMS.—A claim shall be submitted under this subsection not later than the end of the 14-month period beginning on the date of the enactment of this Act.

(c) EVALUATION OF CLAIMS.—

(1) IN GENERAL.—The Commission shall evaluate each claim submitted under this section. In evaluating a claim, the Commission shall—

(A) determine whether or not the individual submitting the claim is eligible to submit the claim;

(B) if the individual is so eligible, determine whether or not the amount paid by the

1 United States to the individual in 1975 for the
2 real property or mining claim of the individual,
3 as the case may be, was full compensation for
4 the value of the real property or mining claim
5 at the time of the taking;

6 (C) if the amount so paid is determined
7 not to have been such full compensation, deter-
8 mine the amount that would constitute such full
9 compensation; and

10 (D) notify the individual and the Secretary
11 of Defense of the determinations.

12 (2) RULES FOR VALUATION OF REAL PROP-
13 ERTY.—In determining the value of real property
14 under paragraph (1)(B), the Commission—

15 (A) shall utilize established precedents for
16 the valuation of real property in New Mexico
17 that is similar to the real property subject to
18 valuation;

19 (B) shall take into account the value, if
20 any, added to the real property by Federal
21 grazing permits associated with the real prop-
22 erty; and

23 (C) may not take into account any lease
24 payments paid by the United States Govern-

1 ment with respect to the real property between
2 1942 and 1975.

3 (3) PRIORITY OF EVALUATION.—The Commis-
4 sion shall give priority in the order of evaluating
5 claims under this subsection to claims submitted by
6 individuals who owned the real property subject to
7 the claims continuously from 1941 until the taking
8 of the real property in 1975.

9 (d) APPEAL.—

10 (1) IN GENERAL.—An individual submitting a
11 claim under this section may appeal a determination
12 of the Commission under subparagraph (B) or (C)
13 of subsection (c)(1) by submitting a notice of appeal
14 of the determination to the Secretary of Defense. An
15 individual shall submit the appeal not later than 30
16 days after receiving notice of the determination
17 under subparagraph (D) of such subsection.

18 (2) REVIEW.—The Secretary shall review each
19 appeal submitted to the Secretary under this sub-
20 section. The Secretary shall complete the review not
21 later than 60 days after the date of receiving the ap-
22 peal.

23 (3) RELIEF.—Subject to paragraph (4), upon
24 completion of the review of an appeal under this
25 subsection, the Secretary shall—

1 (A) uphold the determination of the Com-
2 mission; or

3 (B) establish an amount that is appro-
4 priate to provide full compensation to the indi-
5 vidual submitting the appeal for the value of
6 the real property or mining claim, as the case
7 may be, of the individual that was taken by the
8 United States Government.

9 (4) LIMITATION ON ADJUSTMENT OF COM-
10 PENSATION.—The amount of compensation estab-
11 lished by the Secretary for a claim on appeal under
12 paragraph (3)(B) may not be less than the amount
13 of compensation determined by the Commission for
14 the claim under subsection (c)(1).

15 (5) NOTIFICATION.—The Secretary shall notify
16 each individual submitting an appeal under this sub-
17 section of the decision of the Secretary under para-
18 graph (3).

19 (6) FINALITY OF DECISION.—The decision of
20 the Secretary under paragraph (3) shall not be sub-
21 ject to judicial review.

22 (e) PAYMENT OF COMPENSATION.—

23 (1) PAYMENT.—Subject to paragraph (2), upon
24 upholding the determination of the Commission with
25 respect to a claim under paragraph (3)(A) of sub-

1 section (d) or establishing an appropriate amount of
2 compensation with respect to the claim under para-
3 graph (3)(B) of that subsection, the Secretary of
4 Defense shall pay to the individual submitting the
5 claim the amount, if any, that is so upheld or estab-
6 lished, as the case may be.

7 (2) PAYMENT SUBJECT TO AVAILABILITY OF
8 APPROPRIATIONS.—The Secretary may make pay-
9 ments under this subsection in a fiscal year only to
10 the extent that funds are appropriated for such pur-
11 pose in advance in an appropriations Act.

12 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

13 (a) AUTHORIZATION FOR ACTIVITIES OF COMMIS-
14 SION.—There are authorized to be appropriated such
15 sums as may be necessary for the payment of the cost
16 of the activities of the White Sands Fair Compensation
17 Commission under this Act. Such sums shall be available
18 for expenditure until the termination of the Commission
19 under section 3(i).

20 (b) AUTHORIZATION FOR PAYMENT OF CLAIMS.—
21 There is authorized to be appropriated \$20,300,000 for
22 the purposes of payment of claims under section 4. Such
23 amount shall remain available until expended.

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